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EXAMINER

LERNER, AVRAHAM H

ART UNIT PAPER NUMBER

3611

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/677,188

Applicant(s)

WINCKLER, ELMER

Examiner

Avraham Lerner

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 11-20, 22 and 24-27 is/are rejected.
- 7) ☐ Claim(s) 4-8, 10, 21 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                                           |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                      | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0104</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election without traverse of species A, represented by Fig. 5, in the reply filed on October 19, 2004 is acknowledged.

### ***Information Disclosure Statement***

2. The Information Disclosure Statement, filed January 8, 2004, is acknowledged and has been considered.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. **It should avoid using phrases which can be implied**, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because in line 1, the language "This invention generally relates to" is an example of language which can be implied, and therefore should be deleted. Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3611

6. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15-18 recite that the first arm or second arm forms an angle within given ranges, but does not address with what frame of reference the arm is forming an angle. For example, is the angle formed relative to the horizontal, the vertical, the support connector, etc.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 9, 11-18, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Kniep (U.S. Patent No. 5,915,713).

Kniep discloses an assembly having all elements as claimed, including a support connector (14) adapted to be removably and movably connected to a towing hitch and adapted to be pivotally connected to at least two arms (18, 19); a support structure adapted to be connected to a trailer and adapted to be pivotally connected to the at least two arms; a first arm pivotally connected at a first end to the support connector at a first position and pivotally connected at a second end at a first position to the support structure, and a second arm pivotally connected at a first end to the support connector at a second position and pivotally connected at a second end at a second position to the support structure, and wherein the support connector is T-shaped in cross section (see Fig. 3), the support structure being adapted to provide a plurality of positions in the

Art Unit: 3611

horizontal direction to which at least one of the first arm and second arm may be selectively pivotally connected. Note that it has been held that the recitation that an element is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. See *In re Hutchison*, 69 USPQ 138.

9. Claims 19 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck (U.S. Patent No. 2,809,851).

Beck discloses an apparatus comprising all elements as claimed, including a support connector comprising a first side and a second side and comprising a first end and a second end, the support connector being adapted to be removably and rotatably attachable to a towing hitch and adapted to be pivotally connected to four arms, a support structure comprising a first side and a second side and comprising a first end and a second end, the support structure being adapted to be connected in a fixed relationship to a unit to be towed and adapted to be pivotally connected to the four arms, a first arm pivotally connected at a first end to the first side and at the first end of the support connector and pivotally connected at a second end to the first side and at the first end of the support structure, a second arm pivotally connected at a first end to the first side and at the second end of the support connector and pivotally connected at a second end to the first side and at the second end of the support structure, a third arm pivotally connected at a first end to the second side and at the first end of the support connector and pivotally connected at a second end to the second side and at the first end of the support structure, a fourth arm pivotally connected at a first end to the second side and at the second end of the support connector and pivotally connected at a second end to the second side and at the second end of the support structure, wherein the first arm and the second arm are aligned at an angle other than

Art Unit: 3611

parallel to each other, and wherein the third arm and the fourth arm are aligned at an angle other than parallel to each other, and wherein the arms angle “in towards” each other when at rest, as defined by applicant’s specification and drawings where the arms diverge in an upward direction.

10. Claims 19, 20, 22, and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Betchart (U.S. Patent No. 3,360,280).

Betchart discloses an apparatus comprising all elements as claimed, including a support connector comprising a first side and a second side and comprising a first end and a second end, the support connector being adapted to be removably and rotatably attachable to a towing hitch and adapted to be pivotally connected to four arms, a support structure comprising a first side and a second side and comprising a first end and a second end, the support structure being adapted to be connected in a fixed relationship to a unit to be towed and adapted to be pivotally connected to the four arms, a first arm pivotally connected at a first end to the first side and at the first end of the support connector and pivotally connected at a second end to the first side and at the first end of the support structure, a second arm pivotally connected at a first end to the first side and at the second end of the support connector and pivotally connected at a second end to the first side and at the second end of the support structure, a third arm pivotally connected at a first end to the second side and at the first end of the support connector and pivotally connected at a second end to the second side and at the first end of the support structure, a fourth arm pivotally connected at a first end to the second side and at the second end of the support connector and pivotally connected at a second end to the second side and at the second end of the support structure, wherein the first arm and the second arm are aligned at an angle other than parallel to each other, and wherein the third arm and the fourth arm are aligned at an angle other

Art Unit: 3611

than parallel to each other, and wherein the arms angle "in towards" each other when at rest, as would be conventionally understood in the art to refer to the top portions of the arms.

*Allowable Subject Matter*

11. Claims 4-8, 10, 21, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gottler (U.S. Patent No. 3,552,774), Filippi (FR Patent No. 2,558,429), Janeway (U.S. Patent No. 3,241,860), Kaplenski et al. (U.S. Patent No. 6,746,037), Van Kley (U.S. Patent No. 5,851,021), and Goth (U.S. Patent No. 4,444,408) disclose apparatuses having multiple arms supporting trailer hitch members.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**AVRAHAM LERNER**  
**PRIMARY EXAMINER**

*A. Lerner* 1/24/05

January 24, 2005